



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,231	03/16/2004	Weenna Bucay-Couto	03-205	2019
27774	7590	11/15/2007		
MAYER & WILLIAMS PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090			EXAMINER THALER, MICHAEL H	
			ART UNIT	PAPER NUMBER
			3731	
			MAIL DATE	DELIVERY MODE
			11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,231

Applicant(s)

BUWAY-COUTO ET AL.

Examiner

Michael Thaler

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 24-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/16/04, 12/15/04, 9/9/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Art Unit: 3731

Applicant's election with traverse of invention I in the reply filed on Sep. 13, 2007 is acknowledged. The traversal is on the ground(s) that a search and examination of the entire application may be made without serious burden. This is not found persuasive because the inventions are substantially different, which would result in a serious burden if all inventions were searched and examined.

The requirement is still deemed proper and is therefore made FINAL.

Claims 24-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Sep. 13, 2007.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3731

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 11-16 and 18-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sawhney et al. (6,379,373). Sawhney et al., in the embodiment of figure 3, disclose the steps of injecting a fluid (one of the prepolymer solutions described from col. 9, line 67 to col. 10, line 3) comprising a crosslinkable polymer into a container 46 that is positioned within a subject, crosslinking (i.e. partially crosslinking) said crosslinkable polymer in said container (noting the phrase "begin crosslinking in chamber 46" in col. 10, line 3), thereby forming a (partially) crosslinked polymeric body in the container 46 and releasing said crosslinked polymeric body into the subject (col. 10, lines 3-5). Alternatively, it would have been obvious that the polymeric body in the container 46 is "crosslinked" since it is partially crosslinked. As to claim 2, container 46 is inherently expandable to some extent since it is made of flexible material (col. 9, line 55). As to claim 15, note col. 3, lines 29-35 of Sawhney et al. As to claim 20, note col. 11, lines 30-32 of Sawhney et al.

Art Unit: 3731

Claims 3, 4, 7-10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawhney et al. (6,379,373). As to claims 3 and 4, the Sawhney et al. specification is silent as to whether the container walls are inelastic or elastic. However, it is old and well known in this art to make catheter walls either (1) inelastic or (2) elastic in order to obtain the advantage of making the container (1) strong or (2) expandable to accommodate fluid material therein. It would have been obvious to make the Sawhney et al. container walls either inelastic or elastic so that it too would have these advantages. As to claim 7, Sawhney et al. fails to disclose releasing the container along with the crosslinked polymeric body within the patient. However, it is old and well known in this art for practitioners to at least momentarily manually release a catheter from their grip in order obtain the advantage of enabling the practitioner to perform other procedures. It would have been obvious to release the Sawhney et al. catheter 40 (along with the container and the crosslinked polymeric body) while it is within the patient in order to obtain this advantage. As to claims 8-9, Sawhney et al. fails to disclose the container 46 as being biodegradable. However, it is old and well known in this art to make devices biodegradable in order obtain the advantage of making them easily disposable. It

Art Unit: 3731

would have been obvious to make the container 46 biodegradable so that it too would have this advantage. As to claims 10 and 17, Sawhney et al. fails to disclose washing and the particular artery claimed. However, it is old and well known in this art to wash polymeric bodies and to occlude the particular artery claimed. It would have been obvious to wash the Sawhney et al. polymeric body and occlude the particular artery claimed for these reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571) 272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

mht



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731